

SENATE BILL 1164
By Dixon

AN ACT to amend Tennessee Code Annotated, Title 8, relative to civil service system for local governments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Civil Service System for Local Governments Act of 2003".

SECTION 2. Tennessee Code Annotated, Title 8, is amended by adding sections 3 through 13 as a new chapter thereto.

SECTION 3. The provisions of this act shall be effective in any county or city upon approval by resolution adopted by a two-thirds (2/3) vote of the total membership of the legislative body of such county or city.

SECTION 4. There is hereby created a system of civil service for any city or county in the state of Tennessee.

SECTION 5. (a) There is created a civil service board composed of five (5) members appointed by the local legislative body to administer the system of civil service.

(b) The terms of the members of the board shall be three (3) years; provided, that the initial appointments shall be as follows:

(1) One (1) member selected by the local legislative body for one (1) year;

(2) Two (2) members selected by the local legislative body for two (2) years; and

(3) Two (2) members selected by the local legislative body for three (3) years.

(c) All members of the board shall be over eighteen (18) years of age, of good moral character, citizens of the United States and the state of Tennessee, and must reside in the respective county or city, and shall not hold any elected or appointed office within the respective county or city.

(d) The members of the board shall receive such salary, if any, as determined by the local legislative body in its sound discretion.

SECTION 6. In the event any vacancy for any reason occurs on the board, the local governing body shall appoint a new member to the board within sixty (60) days. Such new member shall serve the remainder of the vacant term.

SECTION 7. The board shall elect one (1) of its members as chair. The commission shall meet at least once every two (2) months and at such other times as shall be specified by call of the chair. Notice of each meeting shall be given in writing to each member by the chair, and such notice shall specify the place and the time of the meeting.

SECTION 8. The board as a body shall:

(1) Adopt and amend rules and regulations for the administration of this act;

(2) Make investigations concerning the enforcement and effect of this act and require observance of the rules and regulations made thereunder;

(3) Hear and determine appeals and complaints respecting the administration of this act;

(4) Establish and maintain a roster of all employees of the classified service showing their respective position, rank, compensation, and place of residence;

(5) Ascertain and record the duties and responsibilities pertaining to all positions in the classified service and classify such positions in the manner hereinafter provided;

(6) Except as otherwise provided in this act, formulate and hold competitive tests to determine the qualifications of persons who seek employment in any position, and as a result of such tests, establish employment lists of eligibles for the various positions;

(7) Establish records of performance and a system of service ratings to be used to determine promotions, the order of layoffs and reemployment, and for other purposes;

(8) Keep any other records as may be necessary for the proper administration of this act; and

(9) Determine all fringe benefits to employees coming under the provisions of this act.

SECTION 9. The board shall, as soon as practical after this part becomes operative, adopt a classification plan and make rules for its administration. The position classification plan may, if desired, create different classes of positions within each position in the classified service. The position classification plan shall show the duties, authorities, responsibilities, and character of work required of each position and each class thereof. The board shall determine the requirements of each position and class thereof as to education, experience, capabilities, knowledge, and skill. As far as practical, the probable lines of promotion to and from the classes of positions shall be indicated.

SECTION 10. (a) The person in charge of hiring shall keep the board informed by periodic reports of the employment needs of the office.

(b)

(1) The board shall, as often as necessary, hold tests to establish lists of persons eligible for the various positions in the classified service.

(2) Such tests shall be public, competitive, and open to all persons who may be lawfully appointed under the rules promulgated by the board and existing

prior to the announcement of the examination. Such rules may set limitations as to residence, age, health, habits, moral character, and other necessary prerequisites for the performance of the duties of the position for which examination is designated.

(c) Promotion tests shall be public, competitive, and free to all persons examined and appointed under the provisions of this part who have held a position for at least one (1) year.

(d) All tests shall be practical and shall consist only of subjects which will fairly determine the capacity of the person examined to perform the duties of the position in which the appointment is to be made. Tests may include examination for physical fitness and manual skill. No question in any test shall relate to religious or political opinions or affiliation.

(e) The eligibles shall take rank upon a list which shall be compiled for each position, in the order of their relative excellence as determined by the tests and without reference to when the tests were given. No lists of eligibles shall be valid after one (1) year; however, the civil service board may extend an eligible period for not more than one (1) additional year.

(f) Notice of the time, place, and general scope of each test, and the duties, pay, and experience required for all positions for which the test is to be held, shall be given by the board to each applicant at least one (1) week preceding the test. The notice must be in writing and addressed to the last known address supplied by the applicant. Notice of promotional tests shall be given as the board may prescribe.

SECTION 11. (a) Whenever a vacancy occurs in any position in a classified section, the person in charge of hiring shall ask the board for the names and addresses of all eligible persons. The board shall certify the names of all persons on the eligible list for that position within thirty (30) days of the request. The person in charge of hiring shall investigate each of the

five (5) highest on the list of eligibles. If none of the five (5) eligibles are acceptable to the person in charge of hiring, such person shall investigate the next five (5) eligibles on the list, one (1) after another until one (1) of the eligibles investigated is acceptable. The person in charge of hiring shall appoint this person to the position and notify the board of such action. If the civil service board fails to provide a list, then the person in charge of hiring may make appointments to vacancies after having notified the board of an intention to do so.

(b) No appointment or promotion for any position in the classified service shall be deemed complete until after the expiration of six (6) months' probationary service, during which time the person in charge of hiring may determine the effectiveness of the employee and if, in such person's judgment, the employee does not meet the standards, the person in charge of hiring may terminate the employment of that person.

(c) Whenever a position of the classified service is filled by promotion, and the services of the person promoted are terminated by the person in charge of hiring during the probationary period, such person shall be returned to such person's former position in the classified service unless such person's conduct during the probationary period has given grounds for dismissal for cause under this part.

(d) Any person dismissed during the probationary period shall not be eligible for a hearing before the board.

(e) A person certified to the person in charge of hiring who does not report for duty at the time so designated and who does not explain in writing within five (5) days such failure to report, may be rejected by the person in charge of hiring, who shall notify the board of the action taken and the reason for it. The person's name will then be stricken from the eligible list.

SECTION 12. (a) The practice and procedure of the board with respect to any investigation by the board authorized by this part shall be in accordance with the rules and regulations to be established by the board. The rules shall provide for reasonable notice to all

persons affected and for the opportunity to be heard, either in person or as represented by counsel, and to introduce testimony in their behalf at a public hearing.

(b) The board, when conducting any investigations or hearings authorized by this part, shall have the power to administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. If any person fails to comply with the orders of the board or of a subpoena issued by the board or any of its members, or if a witness refuses to testify on any matter on which the witness may be lawfully interrogated, the judge in any court of record within the county, on application of any member of the board, shall compel obedience by proceedings as for contempt. The sheriff or the sheriff's legal deputy shall serve such subpoenas as issued by the board.

SECTION 13. (a) The person in charge of hiring shall give an immediate report in writing of all appointments, reinstatements, vacancies, absences, or other matters affecting the status of any member of the classified service or the performance of the duties of members of the classified service. The report shall be in the manner and form prescribed by the board.

(b) The person in charge of hiring may suspend any employee for not more than ten (10) days for cause, and there shall be no right of appeal for such suspension. The sheriff shall not have the authority to suspend any employee for more than one (1) suspension of ten (10) days within any given six-month period of time without a right of appeal.

(c) If the person in charge of hiring suspends any employee for a period longer than ten (10) days, the suspended employee shall be notified in writing of the charges. The suspended employee shall thereafter have ten (10) days to request a hearing before the civil service board. Upon receiving the request, the board shall set a hearing, not more than thirty (30) days from the date of the receipt of the request.

SECTION 14. This act shall take effect July 1, 2003, the public welfare requiring it.

